

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**GERALD RUHNOW and CONNIE  
RUHNOW,**

**Plaintiffs,**

**v.**

**LANE HEARD TRUCKING, LLC., et al,**

**Defendants.**

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**CIVIL ACTION NO. 2:05 CV 527-F**

**DEFENDANT LANE HEARD TRUCKING'S MOTION TO  
STRIKE NORTHLAND'S MOTION TO EXCLUDE EXPERT TESTIMONY**

Defendant Lane Heard Trucking, LLC ("Lane Heard Trucking") requests that the Court strike Northland's Motion to Exclude Expert Testimony [Doc. 88], served on January 25, 2007, which is a motion in limine<sup>1</sup>, as untimely. In support of this motion, Lane Heard Trucking avers as follows:

1. Pursuant to this Court's Scheduling Order [Doc. 21] Section 13 entered in this case, all motions in limine were to be fully briefed and submitted "on or before 15 days prior to the trial date unless said time is shortened by the Court on motion of either party."

2. Motions in limine were due to be filed on January 16, 2007. Lane Heard Trucking filed and served its motions in limine in a timely fashion.

3. Mr. Bloomberg's report was timely disclosed on November 6, 2006. (*See* letter dated November 6, 2006 and enclosed report, attached hereto as Exhibit A). Northland incorrectly states that this designation was made on November 21, 2006. (*See* Northland's

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<sup>1</sup> This motion is a motion in limine as it merely seeks to exclude evidence that Northland views as inadmissible. *See* Black's Law Dictionary at 1033 (7<sup>th</sup> ed. 1999). In fact, Northland apparently recognizes this as a motion in limine as it is filed under the motion in limine code in the e-filing system.

Motion to Exclude Expert Testimony [Doc. 88] at 4).

4. Mr. Bloomberg's deposition was taken on December 18, 2006. (Northland's Motion to Exclude Expert Testimony [Doc. 88] at 4).

5. No motion was made by Northland on January 16, 2007, or even now has been made, to shorten the time for motions in limine.

6. Lane Heard Trucking has been prejudiced by this untimely filing as it does not have sufficient opportunity to conduct an orderly review and analysis of Northland's arguments in less than two business days before trial.

For the reasons set forth above, Northland's Motion to Exclude Expert Testimony [Doc. 88] is due to stricken and Lane Heard Trucking's Motion to Strike is due to be granted.

Respectfully submitted,

/s/ Katie L. Hammett  
J. BURRUSS RIIS (RIISJ8057)  
KATIE L. HAMMETT (HAMMK7587)  
Attorneys for Defendant,  
Lane Heard Trucking, L.L.C.,  
Email: [khammett@handarendall.com](mailto:khammett@handarendall.com)

OF COUNSEL:  
HAND ARENDALL, L.L.C.  
Post Office Box 123  
Mobile, Alabama 36601  
(251) 432-5511

**CERTIFICATE OF SERVICE**

I hereby certify that on the 25th day of January, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

J. Callen Sparrow, Esq.  
Attorney for Plaintiffs  
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PO Box 270  
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Alex L. Holtsford, Esq.  
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[MWhitt@nixholtsford.com](mailto:MWhitt@nixholtsford.com)

/s/ Katie L. Hammett

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# **Exhibit “A”**

Katie Hammett

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Direct Fax (251) 544-1680  
khammett@handarendall.com

# HAND ARENDALL

L.L.C. ■ LAWYERS

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Post Office Box 123 ■ Mobile, Alabama 36601 ■ Facsimile: (251) 694-6375

November 6, 2006

**Via Facsimile and U.S. Mail**

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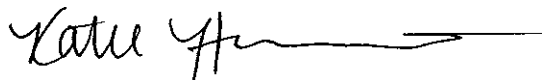
RE: Gerald Ruhnow, et al, v. Lane Heard Trucking, LLC, et al; 2:05-CV-527-F,  
USDC MDAL (formerly CV-05-K-122, Pike County Circuit Court)

Dear Counselors:

Pursuant to the Court's Uniform Scheduling Order, please find enclosed the expert report of Chris Bloomberg. We intend to call Mr. Bloomberg as an expert witness in this case.

If you have any questions or concerns, please feel free to contact me at the above-referenced number.

Sincerely,



Katie Hammett  
For the Firm

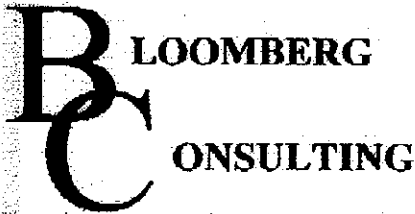
KLH/tlt  
Enclosures

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850-932-7719;

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November 3, 2006

Mr. Buzzy Riis  
Hand Arendall, LLC  
P.O. Box 123  
Mobile, AL 36601

RE: Lane Heard Trucking

FILE: Bloomberg Project No. 10300

Dear Mr. Riis:

I have completed my preliminary review of this accident and in doing so I have personally inspected the Yamaha motorcycle, the Pontiac Grand Am, the remains of both tractor-trailers, and the accident scene as well as having analyzed the following file materials:

- Accident Reports
- Homicide Report
- Alabama Code Vehicle Lighting Requirements
- Mississippi Code Vehicle Lighting Requirements
- BC Photographs
- BC Field Notes
- BC Scene Total Station Survey
- Client Photographs
- Depositions of:
  - Marilyn Heard
  - Jimmy Heard
  - Gerald Ruhnow
  - Christy Champion
  - Michael Adkins
  - Arnold Richardson
  - Connie Ruhnow
  - Randall Jackson

Based on my analysis of the information above and my education and experience, I have reached the following findings and opinions:

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- On March 7, 2005 a 2004 Yamaha motorcycle, driven by Michael Adkins, was heading southbound on US 231 near Brundidge, AL. A 1993 Pontiac Grand Am, driven by Christy Champion, attempted to merge from the center turn lane into the southbound lanes on US 231 in front of the motorcycle. Mr. Adkins was unable to avoid the Pontiac and his motorcycle struck the rear of the Pontiac.
- Ms. Champion pulled her vehicle off to the side of the road after the collision, but the damaged motorcycle was left lying down in the southbound travel lanes of Highway 231. Ms. Champion and Mr. Adkins were talking on the side of the road instead of removing the motorcycle from the dark roadway.
- After the collision between that Pontiac and the motorcycle, a tractor-trailer, driven by Michael Duke, approached the area traveling southbound on Highway 231. Mr. Duke was unable to avoid the motorcycle that was lying down the southbound travel lanes. After the impact, the motorcycle became wedged underneath the truck at the steering axle and the tractor-trailer began dragging the motorcycle while traveling across the centerline into the northbound lanes.
- At the same time, a tractor-trailer, driven by Gerald Ruhnow, was traveling northbound on Highway 231. The two tractor-trailers collided in the northbound lanes and both tractor-trailers became engulfed in flames.
- At the time of these collisions it was raining and it was dark outside.
- The speed limit for Highway 231 in this area was 55 mph.
- Prior to the tractor-trailer collision, Randall Jackson was traveling at approximately 45 mph southbound on Highway 231 up a hill driving a loaded tractor-trailer. He has testified that the tractor-trailer being driven by Michael Duke passed him and was traveling at approximately 50-55 mph.
- The police report lists an estimated speed of 55 mph for Mr. Duke's tractor-trailer.
- Alabama and Mississippi statutes require that a vehicle's headlamps illuminate a person or vehicle at a distance of at least 100 feet ahead.
- While traveling at 55 mph, Mr. Duke's tractor-trailer would travel 120 feet in 1.5 seconds which would correspond to the minimum time that he would require to perceive and react to a vehicle lying in the roadway. The actual perception-reaction time would likely be greater than 1.5 seconds since this is an unexpected event on a dark highway.
- In addition to perception-reaction time there is an additional time of approximately 0.5 seconds for air to build up in the tractor-trailer brakes before any significant braking could occur.
- Even using just the minimum perception-reaction time of 1.5 seconds and the headlight projection distance of 100 feet, Mr. Duke would have struck the motorcycle during his perception and reaction time frame, not allowing any time for him to attempt to avoid the motorcycle. Therefore Mr. Duke's impact with the motorcycle was unavoidable.

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- After the impact, the motorcycle became wedged underneath the Mr. Duke's tractor at the steering axle. My inspection of this tractor revealed that the steering linkage at the front steering axle was significantly damaged and would not function properly. The combination of the motorcycle being dragged in contact with the steer tires and the damaged steering linkage would create a situation where Mr. Duke would have no steering control over his tractor-trailer.
- It is my opinion that Mr. Duke was operating his tractor-trailer properly when he was presented with an unavoidable collision scenario and that his actions did not contribute to the cause of these collisions.
- It is my opinion that the chain of events that led to the catastrophic collision between the two tractor-trailers was caused by the previous collision between the Pontiac and the Yamaha motorcycle. The people involved in the prior collision had a duty to remove the damaged vehicles from the travel lanes in order to prevent any other collision from occurring. If the motorcycle had been removed from the travel lanes, the collision between the two tractor-trailers and the resulting injuries would have been completely avoided.

My opinions are based on my education, experience, and background delineated in the attached curriculum vitae, as well as the evidence and information currently available in this case. Bloomberg Consulting, Inc. charges \$225 per hour for my time spent on consulting projects. A list of the cases in which I have testified in the previous four years is attached to this report as well.

Prior to trial I plan to:

- Analyze any additional information that becomes available in discovery.
- Perform any other work requested by my client.

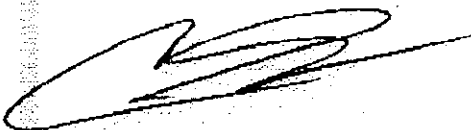
I may use the following exhibits at trial:

- Photographs and drawings.
- An electronic slide show presentation depicting information that is pertinent to my accident reconstruction.
- A 3-dimensional computer simulation of the accident.
- Selected portions of information and testimony obtained in discovery.
- Other exhibits which may be required based on future discovery or additional issues.

I reserve the right to modify and/or add to my findings and opinions as further work is performed and additional information is obtained during the discovery process.

Sincerely,

Bloomberg Consulting, Inc.



Chris Bloomberg, P.E.



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## Testimony List for Chris Bloomberg

<u>Court Case #</u>	<u>Court Jurisdiction</u>	<u>Style</u>	<u>Depo Date</u>	<u>Trial Date</u>
2004-CA-2252	1ST CIR, ESCAMBIA CTY, FL	SANBECK VS SWIFT	10/31/2006	
CV-05-570-L	CIR CT, HOUSTON CTY, AL	WOMACH VS CRITTENDEN	10/24/2006	
05-20188 CA 32	11TH CIR, DADE CTY, FL	GARCIA VS NOVA SOUTHEASTERN	8/15/2006	
04-CA-1730-S	1ST CIR, OKALOOSA CTY, FL	WEISSMAN VS EMERALD COAST BEACH SERVICE	8/7/2006	
2004-CA-000484	1ST CIR, ESCAMBIA CTY, FL	CARLSON VS SALES FORD	NO DEPO	6/20/2006
05-22584-CIV-KING	US DISTRICT CT, MIAMI, FL DIVISION	HEATH VS SOIL TECH	7/13/2006	8/18/2006
04-371-CA	CIR CT, JACKSON CTY, FL	SMITH VS FINUFF	5/8/2006	5/15/2006
05-00807-CFAWS	7TH CIR, VOLUSIA CTY, FL	STATE OF FLORIDA VS SCOTT BOTKA	3/27/2006	
05-CA-003864	CIR CT, HILLSBOROUGH CTY, FL	CRAWFORD VS VERIZON	1/16/2006	
2004-CF-3100	2ND CIR, LEON CTY, FL	STATE OF FLORIDA VS HENRY LYONS	11/21/2005	
2003-CA-1143	1ST CIR, ESCAMBIA CTY, FL	NELSON VS ESCAMBIA COUNTY SCHOOL DISTRICT	10/31/2005	
CV-2004-110	CIR CT, WASHINGTON CTY, AL	LOGUE VS BROOK LYND TRUCKING	10/24/2005	
CV-02-309	CIR CT, ESCAMBIA CTY, AL	ROGERS VS JR TRUCKING	9/15/2005	
04-802-CFA	1ST CIR, SANTA ROSA CTY, FL	STATE OF FLORIDA VS LINDA WHEELER	6/23/2005	9/28/2005
2003 CA 001859	1ST CIR, ESCAMBIA CTY, FL	BROCKNEY VS CAMPBELL	6/20/2005	
04-CF-03842B	1ST CIR, ESCAMBIA CTY, FL	STATE OF FLORIDA VS JOHN GRAYSON	5/31/2005	6/22/2005
03-CA-3951	1ST CIR, OKALOOSA CTY, FL	GANGE VS NICE-VAL FURNITURE	5/11/2005	
03-CA-4647	1ST CIR, OKALOOSA CTY, FL	FLENIKEN VS OKALOOSA COUNTY SCHOOL BOARD	5/2/2005	6/8/2005
03-947-CA	1ST CIR, SANTA ROSA CTY, FL	CASSULO VS PASCHALL TRUCKING	4/19/2005	4/27/2005
03-687-CA-01-N	1ST CIR, SANTA ROSA CTY, FL	LISICA VS HORACE MANN INSURANCE	2/18/2005	
04-48-CA-01-AN-D	1ST CIR, SANTA ROSA CTY, FL	NELSON VS AMERICAN AND FOREIGN INSURANCE	2/9/2005	
02CA000037	1ST CIR, WALTON CTY, FL	EBER VS KINGSTON	1/28/2005	
CV-03-2988	CIR CT, LOWNDES CTY, AL	LEWIS VS FORD MOTOR CREDIT	11/15/2004	
CV-03-2988	CIR CT, MOBILE CTY, AL	FOX VS HATCHER	10/28/2004	
CV-02-135	CIR CT, SUMTER CTY, AL	COOK VS ARMSTEAD	7/13/2004	
01-288-CA	CIR CT, DIXIE CTY, FL	BRICE VS NOONAN	6/15/2004	6/22/2004
1730CF002372A	1ST CIR, ESCAMBIA CTY, FL	STATE OF FLORIDA VS CALDWELL	2/27/2004	4/29/2004
01-3535 DIV 40	ORANGE CTY, FL	ABADIE VS CLARK	1/30/2004	
03-C-07125-2	GWINNETT CTY, GA	HAMM VS MASSI	12/17/2003	
2002-CA-000021	1ST CIR, ESCAMBIA CTY, FL	SIGLER VS ANDERSON COLUMBIA	9/4/2003	
03-382-CA	14TH CIR, HOLMES CTY, FL	GILMORE VS PLOOF	8/15/2003	

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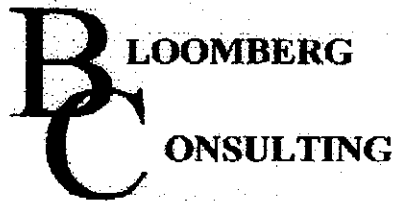
02-CF-304-K	CIR CT; ESCAMBIA CTY, FL	STATE OF FL VS HICKS	8/11/2003	9/18/2003
2001-282	13TH CIR, HILLSBOROUGH CTY, FL	HOSKINS VS HONDA, ET AL	7/9/2003	
2002-CA-000569	CIR CT; ESCAMBIA CTY, FL	POPE VS ESCAMBIA COUNTY SCHOOL BOARD	7/8/2003	8/18/2003
99-1219-CA-01	CIR CT; ESCAMBIA CTY, FL	ASBRIDGE VS MAKEPEACE	5/13/2003	
57-02-574-CFA	CIR CT; SANTA ROSA CTY, FL	STATE OF FL VS SMALLRIDGE	5/8/2003	7/24/2003
99-2028-CA-01	1ST CIR, ESCAMBIA CTY, FL	BAMFORD VS WILLIAMS	4/7/2003	
01-716-CA-01	CIR CT, ESCAMBIA CTY, FL	FELIX VS AL-ENAZI	2/27/2003	
1:02-CV-0185-BBM	US DISTRICT CT, N. DISTRICT OF GA	JOHNSON VS PEP BOYS	1/10/2003	
00-818	CIR CT, BAY COUNTY, FL	PIEZ VS BAY MEDICAL	1/7/2003	
2001-CA001588NC	CIR COURT, SARASOTA CTY, FL	DODSON VS RYDER TRUCK RENTAL	11/7/2002	

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## Curriculum Vitae

### Chris Bloomberg, P.E.

**Profession:** Mr. Bloomberg is a consulting engineer specializing in the reconstruction of vehicular accidents. He has analyzed in excess of a thousand accidents involving cars, tractor-trailers, pedestrians, bicyclists, motorcycles, heavy trucks, etc. He has considerable experience with leading edge technology in the field, including tractor-trailer and automobile "black box" data retrieval systems, robust 3-dimensional accident reconstruction and simulation programs, photogrammetry software, surveying equipment, and vehicle accelerometers. Mr. Bloomberg also applies his expertise by consulting on traditional engineering projects and general consulting projects.

**Licensure:** Professional Engineer, State of Florida, License Number 55695  
Professional Engineer, State of Alabama, License Number 23356

**Education:** *The University of Alabama at Birmingham, Birmingham, AL*  
1986 to 1990 - Bachelor of Science in Materials Engineering, *Cum Laude*  
1991 to 1992 - Graduate Studies in Materials Engineering

**Experience:** *Bloomberg Consulting, Inc. - Pensacola, FL*  
2000 to present - President and Consulting Engineer

*Benedict Engineering Company, Inc. - Tallahassee, FL*  
1998 to 1999 - Vice President of Engineering and Accident Reconstructionist  
1996 to 1999 - Accident Reconstructionist and Manager of the Pensacola Office  
1993 to 1996 - Accident Reconstructionist

*The University of Alabama at Birmingham - Birmingham, AL*  
1991 to 1992 - Undergraduate Class Instructor and Materials Testing Consultant

*Process Equipment Company - Birmingham, AL*  
1990 to 1991 - Design and Safety Analysis

*The University of Alabama at Birmingham - Birmingham, AL*  
1989 to 1990 - Research for NASA Space Shuttle Projects  
1989 to 1990 - Materials Testing Consultant

Accident Reconstruction ♦ Engineering Consulting ♦ Displays and Graphics

**Professional Associations:**

- ◆ National Society of Professional Engineers
- ◆ National Association of Professional Accident Reconstruction Specialists
- ◆ Society of Automotive Engineers
- ◆ American Society for Testing and Materials
- ◆ Florida Engineering Society
- ◆ ASM International
- ◆ Phi Kappa Phi
- ◆ Tau Beta Pi
- ◆ Alpha Sigma Mu

**Training:**

- ◆ Ongoing Accident Reconstruction Training – Since 1993, Mr. Bloomberg has analyzed hundreds of SAE technical papers, crash tests, and other leading edge research in the field of engineering and accident reconstruction.
- ◆ Traffic Accident Reconstruction, *Northwestern University*, Evanston, IL
- ◆ Commercial Vehicle Accident Reconstruction, *Texas A & M*, Denton, TX
- ◆ Extracting and Analyzing Data from Electronic Control Modules, *Detroit Diesel Training Center*, Detroit, MI
- ◆ Highway Event Data Recorder Symposium (Vehicle “Black Box” Systems), *National Transportation Safety Board*, Ashburn, VA
- ◆ Crash Data Retrieval Certification (Vehicle “Black Box” Systems), *Collision Safety Institute*, Houston, TX
- ◆ HTTG Commercial Vehicle Brake Testing, *Transportation Research Center*, East Liberty, OH
- ◆ Commercial Vehicle Braking Systems, *Society of Automotive Engineers*, Detroit, MI
- ◆ Vehicle Drivetrains, *Society of Automotive Engineers*, Detroit, MI
- ◆ HVE-3D Computer Simulations – HVE Forum, *Engineering Dynamics*, Las Vegas, NV
- ◆ HVE-3D Computer Simulations – HVE Forum, *Engineering Dynamics*, San Francisco, CA
- ◆ HVE-3D Computer Simulations – HVE Forum, *Engineering Dynamics*, Miami, FL
- ◆ HVE-2D Computer Simulations, *Northwestern University*, Tallahassee, FL
- ◆ Injuries, Anatomy, Biomechanics, and Federal Regulations, *Society of Automotive Engineers*, Detroit, MI
- ◆ Biomaterials, *University of Alabama at Birmingham*
- ◆ Emergency Collision Avoidance, *Labatt's Test Track*, Toronto, Canada
- ◆ Human Factors, *Catair Conference*, Toronto, Canada
- ◆ Commercial Vehicle Inspection, *Florida Trucking Association*, Jasper, FL
- ◆ Defensive Driving Strategy, *National Safety Council*, Tallahassee, FL
- ◆ Fracture Mechanics, *University of Alabama at Birmingham*
- ◆ Non-Destructive Testing, *University of Alabama at Birmingham*

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**Synopsis:**

Mr. Bloomberg has extensive knowledge and experience in the areas of engineering and accident reconstruction. He has been involved in the documentation, analysis, and reconstruction of over a thousand vehicle accidents. Included in those have been cases involving automobiles, pedestrians, bicyclists, tractor-trailers, heavy trucks, motorcycles, etc. His experience has included vehicle rollover analysis, nighttime and daytime visibility studies, seat belt use and effectiveness, traffic signal sequencing, headlamp filament analysis, and time/speed/distance analysis. He has considerable experience with leading edge technology in the field, including tractor-trailer and automobile "black box" data retrieval systems, robust 3-dimensional accident reconstruction and simulation programs, photogrammetry software, surveying equipment, and vehicle accelerometers.

Mr. Bloomberg has been qualified as an expert in Florida, Alabama, Mississippi, and Georgia. He has been qualified in both state and federal courts. In the area of accident reconstruction, he has given testimony regarding speeds of vehicles, avoidance possibilities, vehicle crush and delta-v, time and distance relationships, headlamp usage, reaction times, etc. In the area of vehicle restraints, he has given testimony regarding seat belt usage and effectiveness, restraint components, occupant compartment intrusion, vehicle interior damage, occupant kinematics, etc.

11/2005